

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>August 23, 2006</u>
			2005-402-C
			2005-403-C
			2005-404-C
			2005-405-C
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2005-406-C</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>		<u></u>

SUBJECT:

DOCKET NO. 2005-402-C – Time Warner Cable Information Services (South Carolina), LLC , Complainant/Petitioner v. St. Stephen Telephone Company , Defendant/Respondent –
DOCKET NO. 2005-403-C – Time Warner Cable Information Services (South Carolina), LLC , Complainant/Petitioner v. Farmers Telephone Cooperative, Incorporated , Defendant/Respondent
DOCKET NO. 2005-404-C – Time Warner Cable Information Services (South Carolina), LLC , Complainant/Petitioner v. Home Telephone Incorporated, Defendant/Respondent
DOCKET NO. 2005-405-C – Complaint of Time Warner Cable Information Services (South Carolina), LLC v. PBT Telecom, Incorporated
DOCKET NO. 2005-406-C – Complaint of Time Warner Cable Information Services (South Carolina), LLC v. Fort Mill Telephone Company

Discuss this matter with the Commission.

COMMISSION ACTION:

Mr. Chairman, as the result of the oral arguments held in these dockets on June 28, 2006, we have three motions to consider: 1) Time-Warner's motion for summary disposition on whether it has the right as a telecommunications carrier to negotiate interconnection agreements with the Defendants under Section 251 of the Telecommunications Act; 2) the Defendants' motion to dismiss this complaint for failure to state a claim on which relief may be granted; and 3) the Defendants' motion to hold this proceeding in abeyance in light of ongoing proceedings at the Federal Communications Commission. First, Mr. Chairman, I move that we deny Time-Warner's motion for summary disposition, since there are genuine issues of material fact present in this case. Second, I move that we deny the Defendants' motion to dismiss this complaint for failure to state a claim on which relief may be granted. The Defendants state that they are exempt from the interconnection duties found in Section 251(c) of the Telecommunications Act, by virtue of their rural exemptions found in Section 251(f). However, it should be noted that, because the statutory classification of Time-Warner as a telecommunications carrier is disputed at this time, it cannot be determined whether interconnection duties and the rural exemption under the Telecommunications Act are applicable. Thus, the motion to dismiss for failure to state a claim on which relief may be granted must be denied at this time, because of the uncertainty of the applicability of the various provisions of the Telecommunications Act. Third, I move that we grant the Defendants' motion to hold this proceeding in abeyance in light of ongoing proceedings at the Federal Communications Commission. Time-Warner has pending petitions before the FCC, and the FCC has an open rulemaking proceeding dealing with the rights and duties of interconnected Voice over the Internet Protocol providers that could alleviate the uncertainty of Time-Warner's status in this matter. Clearly, these FCC proceedings have a direct impact on the proceedings in this matter. In moving to hold this proceeding in abeyance, I propose that this proceeding be postponed for a period of 120 days from the date of the issuance of the written order in this matter, or until the FCC rules on Time-Warner's petitions, whichever occurs first. If the FCC has not ruled on Time-Warner's petitions within the 120 day period, then the Commission will review its decision to hold this matter in abeyance and make a determination as to whether to schedule an evidentiary hearing.

PRESIDING	<u>Hamilton</u>	Session:	<u>Regular</u>
MOTION	YES NO OTHER	Time of Session	<u>2:30 PM</u>

CLYBURN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FLEMING	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HAMILTON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HOWARD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MITCHELL	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MOSELEY	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
WRIGHT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED _____
APPROVED STC 30 DAYS _____
ACCEPTED FOR FILING _____
DENIED _____
AMENDED _____
TRANSFERRED _____
SUSPENDED _____
CANCELED _____
SET FOR HEARING _____
ADVISED _____
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RECORDED BY SCHMIEDING